

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	Art Unit:
FOGH, Jens	)	Examiner:
Serial No.: 10/588,082	)	Washington, D.C.
Filed: June 20, 2007	)	August 16, 2007
For: PRODUCTION AND	)	Docket No.: FOGH=5A
PURIFICATION OF	)	Confirmation No.: 4018
RECOMBINANT...)	

PETITION TO VACATE AND RESPONSE TO NOTIFICATION
OF DEFECTIVE RESPONSE

U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

S i r :

1. An NMR was mailed April 20, 2007, requiring, inter alia, the sequence listing CRF and the statement re paper/CRF content.

2. A response entitled "Late Submission of Declaration..." was filed on June 20, 2007 and included a paper entitled "Response to Sequence Listing Requirement". Section 1 stated that the CRF was enclosed. Section 3 of this paper included the content statements required by the rule.

3. Enclosed herewith is a copy of the postcard receipt from June 20, 2007, showing the filing of the paper entitled "Response to 'Sequence Listing' Requirement" and the CRF disk.

A courtesy copy of the previously filed Response to 'Sequence Listing' Requirement and a courtesy replacement disk are enclosed herewith.

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The statements made in section 3 apply to this courtesy replacement disk.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant

By: 

Iver P. Cooper
Reg. No. 28,005

Enclosures

- June 20, 2007 postcard receipt
- courtesy copy of previously filed
- response to sequence listing requirement
- CRF disk

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IPC:lms
G:\ipc\n-q\Plou\Fogh5A\pto petition to vacate.wpd

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/588,082	Jens Fogh	FOGH 5A

INTERNATIONAL APPLICATION NO.

PCT/DK05/00068

I.A. FILING DATE	PRIORITY DATE
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01/30/2005

01/30/2004

1444

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CONFIRMATION NO. 4018

371 FORMALITIES LETTER



OC000000024894416

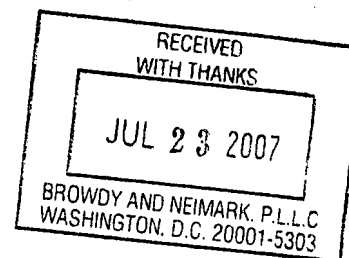
Date Mailed: 07/19/2007

NOTIFICATION OF DEFECTIVE RESPONSE

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495)

- Priority Document
- Copy of the International Application filed on 07/31/2006
- Copy of the International Search Report filed on 07/31/2006
- Copy of IPE Report filed on 07/31/2006
- Preliminary Amendments filed on 06/20/2007
- Oath or Declaration filed on 06/20/2007
- Biochemical Sequence Listing filed on 07/31/2006
- Request for Immediate Examination filed on 07/31/2006
- U.S. Basic National Fees filed on 07/31/2006
- Priority Documents filed on 07/31/2006
- Power of Attorney filed on 06/20/2007
- Specification filed on 07/31/2006
- Claims filed on 07/31/2006
- Abstracts filed on 07/31/2006
- Drawings filed on 07/31/2006
- Paper nucleotide sequence listings filed on 07/31/2006

SEQ/REP-NON-EXT = 19 AUG 2007



Applicant's response filed 06/20/2007 is hereby acknowledged. The following requirements set forth in the NOTIFICATION of MISSING REQUIREMENTS mailed 04/20/2007 have not been completed.

- This application does not contain a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). Applicant must provide such statement. If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000).
- A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 CFR 1.821(e). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice

published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

Applicant is required to complete the response within a time limit of ONE MONTH from the date of this Notification or within the time remaining in the response set forth in the Notification of Missing Requirements, whichever is the longer. No extension of this time limit may be granted under 37 CFR 1.136, but the period for response set in the Notification of Missing Requirements may be extended under 37 CFR 1.136(a).

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:

- **For Rules Interpretation, call (571) 272-0951**
- **For Patentin Software Program Help, call Patent EBC at 1-866-217-9197 or directly at 703-305-3028 / 703-308-6845 between the hours of 6 a.m. and 12 midnight, Monday through Friday, EST.**
- **Send e-mail correspondence for Patentin Software Program Help @ ebc@uspto.gov**

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.

<https://portal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at 1-866-217-9197 or visit our website at <http://www.uspto.gov/ebc>.

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

SHAKEEL AHMED

Telephone: (703) 308-9140 EXT 208

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/588,082	PCT/DK05/00068	FOGH 5A

COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	Art Unit:
FOGH, et al.	)	Examiner:
Appl. No.: 10/588,082	)	Washington, D.C.
Filed: July 31, 2006	)	June 20, 2007
For: PRODUCTION AND PURIFICATION	)	Docket No.: FOGH=5A
OF RECOMBINANT ARYLSULFATASE)	
A	)	Confirmation No.: 4018

RESPONSE TO "SEQUENCE LISTING" REQUIREMENT

U.S. Patent and Trademark Office
Customer Service Window
Randolph Building, Mail Stop Missing Parts
401 Dulany Street
Alexandria, VA 22314

Sir:

REMARKS

- Applicants hereby submit the following:
 - ☐ a paper copy of a "Sequence Listing", complying with §1.821(c), to be incorporated into the specification as directed above;
 - ☐ an amendment to the paper copy of the "Sequence Listing" submitted on , the amendment being in the form of substitute sheets;
 - ☒ the Sequence Listing in computer readable form, complying with §1.821(e) and §1.824, including, if an amendment to the paper copy is submitted, all previously submitted data with the amendment incorporated therein;
 - ☐ a substitute computer readable form to replace one found to be damaged or unreadable.

[] The computer readable form in this application no. 09/... is identical with that filed on [date sequence was filed] in application no. 09/ , filed [filing date]. In accordance with 37 C.F.R. §1.821(e), please use the [first-filed, last-filed or only, whichever is applicable] computer readable form filed in that application as the computer readable form for the instant application. It is understood that the Patent and Trademark Office will make the necessary change in application number and filing date for the instant application. A paper copy of the Sequence Listing is [included in the originally-filed specification of the instant application, included in a separately filed preliminary amendment for incorporation into the specification, whichever is applicable].

2. The description is believed to be in compliance with §1.821(d).

3. The undersigned attorney or agent hereby states as follows:

- (a) this submission does not include new matter [§1.821(g)];
- (b) the contents of the paper copy (as amended, if applicable) and the computer readable form of the Sequence Listing, are the same [§1.821(f) and §1.825(b)];
- (c) if the paper copy has been amended, the amendment is supported by the specification and does not include new matter [§1.825(a)]; and
- (d) if the computer readable form submitted herewith is

a substitute for a form found upon receipt by the PTO to be damaged or unreadable, that the substitute data is identical to that originally filed [§1.825(d)].

4. Under U.S. rules, each sequence must be classified in <213> as an "Artificial Sequence", a sequence of "Unknown" origin, or a sequence originating in a particular organism, identified by its scientific name.

Neither the rules nor the MPEP clarify the nature of the relationship which must exist between a listed sequence and an organism for that organism to be identified as the origin of the sequence under <213>.

Hence, counsel may choose to identify a listed sequence as associated with a particular organism even though that sequence does not occur in nature by itself in that organism (it may be, e.g., an epitopic fragment of a naturally occurring protein, or a cDNA of a naturally occurring mRNA, or even a substitution mutant of a naturally occurring sequence). Hence, the identification of an organism in <213> should not be construed as an admission that the sequence *per se* occurs in nature in said organism.

Similarly, designation of a sequence as "artificial" should not be construed as a representation that the sequence has no association with any organism. For example, a primer or probe may be designated as "artificial" even though it is necessarily complementary to some target sequence, which may occur in nature. Or an "artificial" sequence may be a substitution mutant of a natural sequence, or a chimera of two or more natural sequences, or a cDNA (i.e., intron-free sequence) corresponding to an intron-containing gene, or

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otherwise a fragment of a natural sequence.

The Examiner should be able to judge the relationship of the enumerated sequences to natural sequences by giving full consideration to the specification, the art cited therein, any further art cited in an IDS, and the results of his or her sequence search against a database containing known natural sequences.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant(s)

By: 

Iver P. Cooper
Registration No. 28,005

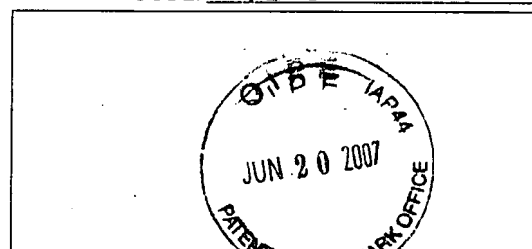
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APPLICATION/PATENT NO: 10/588,082
DOCKET NO: Fogh=5A

CONF. NO.: 4018
CLIENT CODE: PLDU

THE PATENT AND TRADEMARK OFFICE STAMP
HEREON ACKNOWLEDGES RECEIPT OF THE
FOLLOWING PAPERS:

- ☒ FEES \$ 1030.00 PTO FORM 2038
☐ EXTENSION OF TIME (____ MONTHS)
☐ TRANSMITTAL LETTER
☒ MISSING PARTS RESPONSE WITH DECL
☒ ~~AMENDMENT~~ /RESPONSE (circle one)
☒ PRELIMINARY ☐ SUPPLEMENTAL
☐ APPLICATION DATA SHEET
☐ RESTRICTION/ELECTION REPLY
☐ SEQUENCE LISTING ☐ WITH DISK
☐ RCE TRANSMITTAL
☐ REQUEST FOR STATUS
☐ NOTICE OF APPEAL
☐ APPEAL BRIEF/REPLY BRIEF (TRIPLICATE)
☐ REQUEST & CERTIFICATE OF CORRECTION
☒ OTHER Response to Sequence listing with CFE; Copy of
Notification of Missing Requirements



- ☐ ASSIGNMENT
☐ INFORMATION DISCLOSURE STATEMENT
☐ FORM SB08A & _____ PATENTS/PUBS
☐ PRIORITY DOCUMENT(S) NO. _____
☐ DECLARATION UNDER § _____
☐ _____ SHEETS OF FORMAL DRAWINGS
☐ ISSUE FEE TRANSMITTAL FORM
☐ PUBLICATION FEE
☐ MAINTENANCE FEE LETTER